

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

**MEDPOINTE HEALTHCARE INC., : Civil Action No. 03-5550 (MLC)**

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**Plaintiff,** :  
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:

**v.** :  
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**HI-TECH PHARMACAL CO., INC., :  
Inc.,** :  
:

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:

**Defendant,** :  
:

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:

**MEDPOINTE HEALTHCARE, INC., :  
:**

**Civil Action No. 04-1686 (MLC)**

:  
:

**Plaintiff,** :  
:

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:

**v.** :  
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**O R D E R**

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**MORTON GROVE  
PHARMACEUTICALS, INC.,** :  
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**Defendant.** :  
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**HUGHES, U.S.M.J.**

This matter having come before the Court upon Motion by Defendant Hi-Tech Pharmacal Co., Inc., (“Hi-Tech”), to Bifurcate Trials on Damages and Alleged Willfulness of Infringement Pursuant to FED. R. CIV. P. 42(b) and for Consolidated Trial on Liability of Civil Action 03-5550 and 04-1686 Pursuant to FED. R. CIV. P. 42(a) [Docket Entry # 104], returnable September 5, 2006; and Defendant Morton Grove (“Morton Grove”) having joined the motion by letter on July 24, 2006; and Plaintiff Medpointe Healthcare Inc. (“Plaintiff”) opposing the Motion; and the Court having reviewed the parties’ written submissions; and the Court having conducted oral argument on January 22, 2007; and for the reasons expressed in the accompanying Memorandum Opinion; and good cause having been shown;

IT IS on this 22<sup>nd</sup> day of January, 2007,

ORDERED that Hi-Tech's and Morton Grove's Motion to Bifurcate Trials on Damages and Alleged Willfulness of Infringement Pursuant to FED. R. CIV. P. 42(b) and for Consolidated Trial on Liability of Civil Action 03-5550 and 04-1686 Pursuant to FED. R. CIV. P. 42(a) [Docket Entry # 104] is GRANTED as follows:

1. The Hi-Tech [Docket No. 03-5550] and Morton Grove [Docket No. 04-1686] actions shall be consolidated for purposes of liability.
2. The actions shall be bifurcated for separate trials **but** before the **same** jury on the issues of damages and willfulness.
3. The issue of inequitable conduct shall be decided by bench trial following the trials for liability, damages, and willfulness.
4. Sufficient time shall be allowed between trials to allow the parties to adequately prepare for each subsequent phase.

/s/ John J. Hughes

**JOHN J. HUGHES**

**UNITED STATES MAGISTRATE JUDGE**